IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

OP.No. 36264 of 2001(S)

OA.962/1999 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONERS:
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1. **LAKSHADEWEEP HARBOUR WORKS EMPLOYEES UNION, REPRESENTED BY ITS GENERAL SECRETARY, J.JAYAKUMAR, HINDI TRANSLATOR, LAKSHADWEEP HARBOUR WORKS, KAVARATTI, UNION TERRITORY OF LAKSHADEWEEP.**

2. **N.RAMACHANDRA PANICKER, AGED 51 YEARS, S/O LATE NEELAKANDAN NAIR, FOREMAN (CIVIL) GRADE II, LAKSHADWEEP HARBOR WORKS, KAVARATTI, UNION TERRITORY OF LAKSHADWEEP.**

BY ADV. SRI.M.A.SHAFIK

RESPONDENTS:
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1. **UNION OF INDIA REPRESENTED BY SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF SURFACE TRANSPORT, NEW DELHI.**

2. **UNION OF INDIA, REPRESENTED BY SCRETARY, MINISTRY OF FINANCE, DEPARTMENT OF EXPENDITURE, NEW DELHI.**

3. **THE CHIEF ENGINEER AND ADMINISTRATOR, ANDAMAN AND LAKSHADWEEP HARBOR WORKS, PORT BLAIR.**

4. **THE DEPUTY CHIEF ENGINEER, LAKSHADEWEEP HARBOR WORKS, KAVARATTI.**

5. **THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.**

BY ADV. SRI.P.S.SREEDHARAN PILLAI, SCGSC
SRI.JOHN VARGHESE, SCGSC
SRI.P.PARAMESWARAN NAIR,ASST.SOLICITOR GENERAL

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 27/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP NO.36264/2001

APPENDIX

PETITIONERS EXHIBITS

EXT.P1: TRUE COPY OF OM NO.11016/1/E/II DATED 29.03.1984 ISSUED BY THE GOVERNMENT OF INDIA, MINISTRY OF FINANCE, DEPARTMENT OF EXPENDITURE, NEW DELHI AND COVERING LETTER DATED 4/6-03/-1985.

EXT.P2: TRUE COPY OF OM NO.11014/1/E/II(B)/84 DATED 28.05.1986 ISSUED BY THE GOVERNMENT OF INDIA, MINISTRY OF FINANCE, DEPARTMENT OF EXPENDITURE, NEW DELHI.

EXT.P3: TRUE COPY OF OM NO.11014/1/84/E-II(B) DATED 3.3.1988 ISSUED BY THE GOVERNMENT OF INDIA, MINISTRY OF FINANCE, DEPARTMENT OF EXPENDITURE, NEW DELHI.

EXT.P4: TRUE COPY OF LR.NO.A-27023/1/SO/PE DATED 28.6.1990 ISSUED BY THE GOVERNMENT OF INDIA, MINISTRY OF SURFACE TRANSPORT (PORTS WING).

EXT.P5: TRUE COPY OF LR.NO.SES FILE NO.10/7/85 ADMN. DATED 3.12.1985 ISSUED BY THE MINISTRY OF TRANSPORT, DEPARTMENT OF LIGHT HOUSES AND LIGHTSHIPS.

EXT.P6: TRUE COPY OF LETTER NO.ID NO.1810 E-II(B)/86 DATED 13.1.986 OF THE MINISTRY OF FINANCE, DEPARTMENT OF EXPENDITURE, NEW DELHI.

EXT.P7: TRUE COPY OF LETTER DATED 11.10.1994 ADDRESSED TO THE MINISTER OF STATE FOR HOME AFFAIRS,NEW DELHI.

EXT.P8: TRUE COPY OF THE LETTER DATED 27.4.1995 OF THE MINISTER OF STATE OF FINANCE ADDRESSED TO MINISTER OF STATE FOR HOME AFFAIRS.

EXT.P9: TRUE COPY OF THE LR.NO.LHW/AND/EH-27/136/97 DATED 20.1.1997 OF THE EXECUTIVE ENGINEER, LAKSHADWEEP HARBOR WORKS, ANDROTH.

EXT.P10: TRUE COPY OF THE REPLY STATEMENT FILED BY THE RESPONDENTS IN ORIGINAL APPLICATION 962/99 BEFORE THE CAT.

EXT.P11: TRUE COPY OF THE ORDER DATED 25.1.2001 IN OA 962/99 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL.

EXT.P12: TRUE COPY OF THE MA NO.1094/01 FILED IN ORIGINAL APPLICATION 962/99 BEFORE THE CAT.

EXT.P13: TRUE COPY OF THE ORDER NO.LHW/ESTT/131/715 DATED 18.9.2001 ISSUED BY THE 4TH RESPONDENT.

EXT.P14: TRUE COPY OF THE ORDER DATED 19.9.2001 IN CP(C) 33/01 IN OA NO.962/99 OF THE CAT.

EXT.P15: TRUE COPY OF THE ORDER DATED 4.10.2001 IN MA NO.1094/2001 IN OA NO.962/99 OF THE CAT.

//TRUE COPY//

K.S.RADHAKRISHNAN & ANTONY DOMINIC, JJ.

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O.P. NO. 36264 OF 2001

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Dated this the 27th day of July, 2007

J U D G M E N T

Radhakrishnan, J.

We find no infirmity in the order passed by the Tribunal. However, we make it clear that only those members of the applicant Association who have satisfied the conditions laid down are entitled to double HRA. Para 8 of the counter affidavit filed by the respondents, reads as follows:

> Ext.P11 order of the Hon'ble Central Administrative Tribunal held that members of the first applicant union are entitled to get the benefit of double HRA. If while working at Calicut they were being paid HRA and they continue to keep their family in the place from where they have been transferred. This order did not clarify whether the members of the first applicant union would be entitled to double HRA even if they have shifted their families to their native place or other places after they are transferred to Lakshadweep Islands. These respondents therefore filed Miscellaneous Application for clarification that the members of the petitioner Union who are similarly situated as the applicants in OA 675/91 would not be entitled to the benefit of double HRA. The Tribunal by Ext.P15 order clarified that those who are keeping their families at native place and not within Municipal Limits or nearby the place of their last posting would not be entitled to the benefit of double HRA during their posting in the Union Territory

of Lakshadweep.”

The Department was only seeking a clarification from the Tribunal that members of association as such would not get the benefit of double the HRA by only those eligible persons

Under such circumstances, we find no reason to entertain this OP and the same is dismissed.

K.S.RADHAKRISHNAN, JUDGE.

ANTONY DOMINIC, JUDGE.

Rp